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SIPDIS

DOE FOR GPERSONS, CHAYCOCK
TREASURY FOR DPETERS, RHALL, RABDULRAZAK
COMMERCE FOR KBURRESS
USDOC FOR 3130/USFC/OIO/ANESA/DHARRIS
STATE PASS USTR FOR LISER, AGAMA
STATE PASS USAID FOR NFREEMAN, GBERTOLIN
STATE PASS OPIC FOR ZHAN, MSTUCKART
STATE PASS TDA FOR LFITTS, PMARIN
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E.O. 12958: N/A

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SUBJECT: NIGERIA: ELECTION TRIBUNALS UPDATE

11. (U) Summary: The Appeals Court in Kwara State, on February 17 overturned the decision of the electoral tribunal affirming the election of Ekiti State Governor, Segun Oni (PDP) and ordered new elections in 10 of the state's 16 local government areas. (Comment: After 21 months in power, it is likely that former Governor Oni will be returned; to date, all election reruns ordered by courts have been won by the former governors. While the composition of the state assembly (half PDP, half AC, and is led by Acting Speaker (AC)) evens out access to resources by the two parties, the PDP controlled local government chairmen may be their party's trump cards. End comment.) On February 11, the Court of Appeal sitting in Port Harcourt upheld the election of Governor Theodore Orji (PPA) of Abia State. End summary.

EKITI: COURT SACKS GOVERNOR ONI

12. (U) In a unanimous judgment on February 17, the five-man panel of judges of the Federal Appeal Court sitting in Ilorin, Kwara State cancelled the April 14, 2007 election of Ekiti State Governor Segun Oni of the Peoples Democratic Party (PDP). The court directed the Independent National Electoral Commission (INEC) to conduct fresh elections within 90 days of the date of judgment, in 10 local government areas (LGAs) where the Electoral Act of 2006 was substantially not complied with. In line with the court's ruling, the Speaker of the Ekiti State House of Assembly, Tunji Odeyemi was promptly sworn in as acting governor by acting Chief Judge Silas Oyewole, pending a rerun of the polls.

13. (U) The court's judgment overturned the August 2008 decision of the election tribunal, which upheld the election of Governor Oni. The Action Congress (AC) governorship candidate, Dr. Kayode Fayemi, had appealed to the higher court citing gross electoral malpractice and non-compliance with the electoral law, urging the appellate court to void Oni's election. Although the court did nullify polls in 10 LGAs because of irregularities in the voters' accreditation process, it ruled that polls held in the other six LGAs in Ekiti, remained valid.

14. (U) Local press reported widespread approval of the judgment by both parties' stalwarts. According to the Guardian newspaper, Governor Oni, who immediately vacated the government house, opined that the judgment is not a victory for the AC since polls were cancelled only in 64 out of 177 wards in the state. The AC also applauded the decision while accepting that it has an uphill task ahead of the new polls.

ABIA: COURT UPHOLDS ORJI'S ELECTION

¶5. On February 11, the Court of Appeal sitting in Port Harcourt upheld the election of Abia Governor Theodore Orji of the Progressive Peoples Alliance (PPA) in a unanimous decision. The court overturned the judgment of the election tribunal which had, in February 2008, declared the PDP governorship candidate, Chief Onyema Ugochukwu, winner of the April 2007 polls despite acknowledging that Orji had won the majority of votes cast. Governor Orji and his deputy, Chris Akomas had petitioned the appellate court to reverse the tribunal's decision.

ANAMBRA: SENATOR'S ELECTION ALSO UPHELD

¶6. (U) The Appeal Court in Enugu on February 10, also upheld the election of Enugu State senator, Joy Emordi of the PDP, dismissing the appeal filed by Jessy Balonwu of the Labor Party (LP) who had appealed the judgment of the lower tribunal last year in Awka, Anambra State, which in June 2008, upheld Emordi's election.

COMMENT

¶7. (U) After 21 months in power, it is likely that former Governor Oni will be returned; to date, all election reruns ordered by courts have been won by the former governors. While the composition of the

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state assembly (half PDP, half AC, and is led by Acting Speaker (AC)) evens out access to resources by the two parties, the PDP controlled local government chairmen may be their party's trump cards. End comment

¶8. (U) This cable has been cleared by Embassy Abuja

Blair